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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,703	09/18/2003	Eric Holmes	71034	5196
23872	7590	04/22/2005	EXAMINER	
MCGLEW & TUTTLE, PC P.O. BOX 9227 SCARBOROUGH STATION SCARBOROUGH, NY 10510-9227			FERGUSON, MICHAEL P	
		ART UNIT		PAPER NUMBER
				3679

DATE MAILED: 04/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/664,703	HOLMES, ERIC	
	<b>Examiner</b>	<b>Art Unit</b>	
	Michael P. Ferguson	3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extension of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 06 April 2005.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-29 is/are pending in the application.

4a) Of the above claim(s) 5,6 and 9-29 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-4,7 and 8 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 18 September 2003 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 09/18/03.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Election/Restrictions***

1. Applicant's election without traverse of Species 1, Figures 11-13, claims 1-4, 7 and 8, in the reply filed on April 6, 2005 is acknowledged.
2. Claims 5, 6 and 9-29 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on April 6, 2005.

### ***Drawings***

3. The drawings are objected to because of the following:

The cross-hatching of elements **18, 20, 34, 40, 72 and 74** in Figures 5, 7, 13, 15, 17A and 17B is improper based on the material of such elements.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### ***Claim Objections***

5. Claims 1-4 are objected to because of the following informalities:

Claim 1 (line 5) recites "said housing portion". It should recite --said housing part--.

Claim 2 (line 2) recites "said housing". It should recite --said housing part--.

Claim 2 (line 3) recites "said housing". It should recite --said housing part--.

Claim 3 (line 1) recites "said bearing shell portion". It should recite --said bearing shell surface--.

Claim 3 (line 2) recites "the entire bearing shell with said joint ball contact surface". It should recite --an entire bearing shell with a joint ball contact surface--.

Claim 4 (line 1) recites “said bearing shell portion”. It should recite --said bearing shell surface--.

Claim 4 (line 2) recites “said bearing shell portion”. It should recite --said bearing shell surface--.

Claim 4 (line 3) recites “said bearing shell portion”. It should recite --said bearing shell surface--.

Claim 4 (line 3) recites “said housing portion”. It should recite --said housing part--.

For the purpose of examining the application, it is assumed that appropriate correction has been made.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-4, 7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Schutt et al. (US 5,611,635).

As to claim 1, Schutt et al. disclose a ball-and-socket joint capable of use with motor vehicles, the ball-and-socket joint comprising:

a joint ball **2a** and a pivot pin **2d**;

a housing part **1** formed of a shaped metal tube and formed with a top end with an opening and an opposite end with a pivot pin opening; and

molded material **3** disposed on the housing part forming functional surfaces on each of an inside **1a** and an outside of the housing part (Figures 1 and 2).

The applicant is reminded that patentability determination of product-by-process claims is based on the product itself, even though such claims are limited and defined by the process. See MPEP § 2113. "The patentability of a product does not depend on its method of production." In re Thorpe, 777 F.2d 695,698,USPQ 964,966 (Fed.Cir.1985).

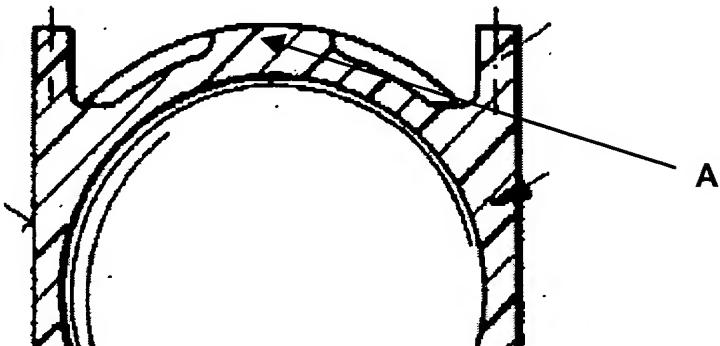
As to claim 2, Schutt et al. disclose a ball-and-socket joint wherein the functional surfaces include a bearing shell surface **3b** on the inside **1a** of the housing part **1** and a bellows seat surface contour **3e** on an outside of the housing part (Figure 1).

As to claim 3, Schutt et al. disclose a ball-and-socket joint wherein the bearing shell surface **3b** forms an entire bearing shell with a joint ball contact surface in contact with substantially all of a bearing surface of the joint ball **2a** (Figure 1).

As to claim 4, Schutt et al. disclose a ball-and-socket joint wherein the bearing shell surface **3b** includes extension segments **3d,A** (Figure 2 reprinted below with annotations) integral with the bearing shell surface and extending from a region of the bearing shell surface disposed on the housing part **1**, the extension segments being formed to a shape to form a joint ball end region bearing surface (Figure 1).

The applicant is reminded that patentability determination of product-by-process claims is based on the product itself, even though such claims are limited and defined by the process. See MPEP § 2113. "The patentability of a product does not depend on

its method of production. " In re Thorpe, 777 F.2d 695,698,USPQ 964,966 (Fed.Cir.1985).



As to claim 7, Schutt et al. disclose a ball-and-socket joint comprising an end cap 4 wherein the housing part 1 is formed as a shaped metal tube with the top end having an opening and the end cap closes the opening (Figure 1).

As to claim 8, Schutt et al. disclose a ball-and-socket joint wherein the functional surfaces on each of the inside 1a and the outside of the housing part 1 are formed of one molded part wrapping around an edge of the housing part (Figure 1).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure. The following patents show the state of the art with respect to ball-and-socket joints:

Tamatsu et al. (US 6,736,565) and Suzuki et al. (US 5,044,811) are cited for pertaining to joints comprising bearing shell extension segments.

Lee (US 5,676,485) and Sugita et al. (US 5,489,161) are cited for pertaining to joints comprising an end cap.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (703)308-8591. The examiner can normally be reached on M-F (7:30-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703)308-2686. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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